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EXAMINER

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DAVIS, J

ART UNIT 1314	PAPER NUMBER 3
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06/25/97

DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined       Responsive to communication filed on \_\_\_\_\_  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1.  Notice of References Cited by Examiner, PTO-892.
2.  Notice re Patent Drawing, PTO-948.
3.  Notice of Art Cited by Applicant, PTO-1449.
4.  Notice of Informal Patent Application, Form PTO-152.
5.  Information on How to Effect Drawing Changes, PTO-1474.
6.  \_\_\_\_\_

**Part II SUMMARY OF ACTION**

1.  Claims 1-11 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2.  Claims \_\_\_\_\_ have been cancelled.

3.  Claims 10 are allowed.

4.  Claims 1-9 & 11 are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.

7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable  not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been  approved by the examiner.  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed on \_\_\_\_\_, has been  approved.  disapproved (see explanation).

12.  Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other \_\_\_\_\_

**EXAMINER'S ACTION**

Art Unit: 1314

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 to 3, 8, 9, and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over McKay.

McKay shows prior art materials which are wound on a roll and then weakened by having cuts made diametrically toward the center of the roll. If these materials were unwound, they would produce a sheet material where the distance between weakened areas changed continually along the length like the materials claimed here. If these materials were subsequently wound onto a roll of smaller diameter, then a material with the claimed overlap would be produced, and thus this intended use limitation fails to define the material claimed here from McKay.

4. Claims 4 to 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKay.

The teachings of McKay are set forth above. The reference is not specific as to the

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spacing that would result when the material is cut diametrically, however, it appears that by routine experimentation one would arrive at the material spacing claimed here.

5. Claim 10 is allowed.

Any inquiry regarding this communication or earlier communications from the Examiner should be directed to Jenna Davis, whose telephone number is (703) 308-2429. The Examiner can normally be reached Monday to Friday from 9:30 AM to 6:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marion McCamish, can be reached on (703) 308-3961. A facsimile center has been established in Group 1300, Crystal Mall 1, Room 8D10. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 305-5436. This location should be used in all instances when faxing any correspondence to Art Unit 1314. Use of the Group 1300 center will facilitate rapid delivery of materials to Examiners in Art Unit 1314.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2351.

*Jenna Davis*  
**Jenna Davis**  
**Primary Examiner**  
**Group 1300**

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